

**OTAY RANCH PRESERVE OWNER/MANAGER (POM)  
POLICY COMMITTEE MEETING**

County Administration Center, Tower 7  
1600 Pacific Highway  
San Diego, CA 92101

November 20, 2008  
2:00 – 5:00pm

**AGENDA**

- I. Call to Order**
- II. Approval of POM Policy Committee Meeting Minutes of July 17, 2008**
- III. Public Comment on items not related to Agenda**
- IV. Status Reports**
  - A. Projects** (*LeAnn Carmichael, Marisa Lundstedt*)
    - 1. County of San Diego**
      - a. Board Policy I-109 Otay Ranch Implementation Document Amendment - Adoption of Phase 2 RMP and Preserve Boundary Modifications (*initiated by the County of San Diego*)
      - b. Village 13 (*initiated by Otay Ranch Company*)
      - c. Wolf Canyon Vacation/Substitution (*initiated by Otay Ranch Company*)
    - 2. City of Chula Vista**
      - a. Wolf Canyon Vacation/Substitution (*initiated by Otay Ranch Company*)
  - B. Preserve Status** (*Cheryl Goddard, Marisa Lundstedt*)
    - 1. Updates on Pending Conveyances**
    - 2. Meeting with the Wildlife Agencies**
- V. Policy Decision Issues** (*Cheryl Goddard, Marisa Lundstedt*)
  - A. Dispute Resolution Process**
  - B. Future Infrastructure**
- VI. Finance** (*Josie McNeeley, Cheryl Goddard*)
  - A. FY07-08 Summary**
  - B. 5-year Forecast**
  - C. Budget Timeline**
  - D. TransNet EMP Grant Application for Cactus Wren Restoration efforts in Salt Creek**
- VII. Next Policy Committee Meeting**
  - A. TBD**
- VIII. Adjournment**

**DRAFT Minutes**  
**Otay Ranch POM Policy Committee Meeting**  
1800 Maxwell Road, Lunch Room  
Chula Vista, CA 91911

July 17, 2008  
2:00 - 5:00 pm

**ATTENDEES:**

**City of Chula Vista**

Jerry Rindone, Deputy Mayor  
David Garcia, City Manager  
Jill Maland, Deputy City Attorney  
Iracsema Quilantan, Deputy Director, General Services, City of Chula Vista  
Marisa Lundstedt, Principal Planner  
Josie McNeeley, Associate Planner  
Tessa Quicho, Administrative Analyst  
Amy Partosan, Administrative Analyst  
Merce LeClair, Administrative Analyst  
Boushra Salem, Senior Civil Engineer

**County of San Diego**

Chairman Greg Cox, 1<sup>st</sup> District Supervisor  
Michael De La Rosa, District 1, Policy Advisor  
Mark Mead, County Counsel  
Megan Jones, Land Use Environmental Group Deputy Chief Administrator Office, Staff Officer  
Renée Bahl, Director, Department of Parks and Recreation (DPR)  
Trish Boaz, Chief, DPR  
Cheryl Goddard, Land Use Environmental Planner, DPR  
Larry Duke, District Park Manager, DPR  
LeAnn Carmichael, Planning Manager, DPLU

**Public**

Duane Bazel  
Libby Lucas, CA Dept. of Fish and Game  
Justin Craig, McMillin  
Lindsey Cavallaro, EDAW  
Kim Kilkenny, Otay Ranch Company  
Ranie Hunter, Otay Ranch Company  
Sean Kilkenny, Otay Ranch Company  
Curt Noland, Otay Land Company  
Bob Penner, Otay Land Company

**ATTACHMENT A – Meeting Sign-in Sheet**

*Agenda Item Numbers noted in parentheses*

**1. Call to Order**

**(I.)** Meeting called to order at 2:28 p.m. by City of Chula Vista/DEPUTY MAYOR RINDONE.

**2. Approval of Policy Committee Meeting Minutes of January 28, 2008**

**(II.)** County of San Diego/CHAIRMAN GREG COX motioned to approve the meeting minutes. Motion seconded by DEPUTY MAYOR RINDONE. Motion carried.

**3. Public Comment on items not related to Agenda**

**(III.)** DEPUTY MAYOR RINDONE opened the floor for public comments. Hearing none, the public comment period on items not related to the agenda was closed.

**4. Status Report**

**(IV.A.1.a)** County of San Diego/LEANN CARMICHAEL reported on the Board Policy I-109 Otay Ranch Implementation Document Amendment (*initiated by the County of San Diego*) - Adoption of Phase 2 RMP and Preserve Boundary Modifications - CARMICHAEL stated the County Planning Department will bring a recommendation to amend the Resource Management Plan Phase 2 to the County Board of Supervisors for their consideration in late Fall/early winter.

**(IV.A.1.b)** CARMICHAEL reported that the Applicant for Village 13, the Otay Ranch Company, is anticipated to submit their next submittal in September.

**(IV.A.1.c)** CARMICHAEL reported that the County has initiated final revisions to the hearing reports for the County's Wolf Canyon Vacation/Replacement application. County staff has requested updated exhibits from the Applicant, the Otay Ranch Company. The issue of future infrastructure will be discussed as an item later on today's agenda. If consensus is reached on future infrastructure, the County anticipates the Board of Supervisors to consider the project this Fall.

**(IV.A.2.a)** City of Chula Vista/JOSIE MCNEELEY reported on the Championship Off-Road Racing (CORR) Conditional Use Permit (CUP) application. The Planning Commission voted unanimously to approve the project on June 25<sup>th</sup>. The City Council also approved the project on July 8<sup>th</sup>. The applicant is currently implementing mitigation measures in accordance to their use permit. Practice sessions were held July 12-14<sup>th</sup>. No complaints were received. The first race events are scheduled for July 26-27<sup>th</sup> with practice and qualifying rounds to be held the Friday before.

**(IV.A.2.b)** City of Chula/MARISA LUNDSTEDT reported on the City's Wolf Canyon Vacation/Substitution application. The City is undergoing a similar process as the County on this application. The issue of future infrastructure must be resolved in order to move the project forward. The City is coordinating with the County on proposed hearing dates.

**(IV.A.2.c)** LUNDSTEDT reported on the City's University Agreements. The City Council approved land offer agreements with the Otay Land Company and JPB. These agreements involve the development of the southeastern portion of Otay Ranch and the University Site. One kickoff meeting with both land owner representatives has been held to discuss project scheduling. The agreements outline limitation and time constraints for the completion of the projects.

**(IV.A.3.a)** MCNEELEY reported on the OVRP Trails Coordination occurring in eastern OVRP east of Heritage Road and west of Otay Lakes. MCNEELEY reported that a field trip was held with JPB, OVRP Joint staff, and POM staff. OVRP Joint staff, in coordination with MSCP and POM staff, has provided comments to JPB. JPB will be requesting a meeting with OVRP Joint staff to ask for clarification on some of the comments.

**(IV.B.1)** County of San Diego/CHERYL GODDARD presented the Preserve status. GODDARD stated that today's presentation would only focus on the most recent lands committed to the Preserve and pending conveyances. As mentioned earlier, the most recent lands committed to the Preserve total 160 acres. These lands are a part of the University agreement with Otay Land Company and have been offered through IOD to the City of Chula Vista. The lands are located within the Otay River Valley and in Proctor Valley north of Village 13.

GODDARD stated there are approximately 796 acres that is anticipated to be conveyed to the POM by the end of the calendar year. The first property is offered by Brookfield Shea, approximately 41 acres. The County accepted this IOD in late 2006. The City has the documentation from the applicant needed to accept the land. The City is waiting for resolution by the POM Policy Committee on future infrastructure in order to sign and accept the IOD.

GODDARD stated that the Otay Ranch Company is offering 525 acres to the POM. Otay Ranch Company submitted Preliminary Title Reports, Grant Deeds, Phase I Reports, and evidence that property markers have been placed. They are working on providing legal and physical access to the lands. For lands south of Otay Lakes Road and east of the lakes, POM staff is working with the applicant to gain legal and physical access through CA Dept. of Fish and Game, City of San Diego Water Department, and Bureau of Land Management lands. POM staff is exploring the use of a Memorandum of Understanding between these other agencies.

GODDARD stated that McMillin is offering 230 acres south of Otay Lakes road and east of the lakes. As mentioned with the Otay Ranch Company lands in this area, POM staff is working with the applicant to gain legal and physical access to this property. McMillin has prepared the Preliminary Title Report, Phase I report, and have placed property markers on the land.

GODDARD stated that these lands totaling approximately 796 acres are anticipated to be accepted by the POM by this calendar year.

CHAIRMAN COX asked if there were any impediments in accepting these lands.

GODDARD stated that the Brookfield Shea property will require resolution on future infrastructure in order to accept and that POM staff is working with Otay Ranch Company and McMillin in order to resolve legal and physical access to their proposed conveyance lands.

GODDARD reported on pending conveyances with outstanding issues. These lands total approximately 740 acres.

GODDARD stated that Otay Ranch Company is offering 73 acres within the Wolf Canyon area. Outstanding issues include the processing of the IOD vacation/replacement - as reported by CARMICHAEL and LUNDSTEDT the vacation/replacement application is anticipated to be heard by the Board of Supervisors and the City Council this Fall if the Policy Committee can come to resolution on future infrastructure at today's meeting and a small area within Wolf Canyon requires Maritime Succulent Scrub restoration and achievement of 5-year success criteria to be approved by the Wildlife Agencies – the restoration is currently in year 1.

DEPUTY MAYOR RINDONE asked what steps are being taken to resolve these outstanding issues.

GODDARD stated that Otay Ranch Company is anticipated to submit new IOD exhibits in which those lands with maritime succulent scrub restoration requirements maybe eliminated and replaced with other lands. Future infrastructure will be discussed as a part of today's agenda.

GODDARD stated that Otay Ranch Company is also offering 559 acres directly north of Village 13. These lands will not be accepted by the POM until the Board of Supervisors takes action on a final development/Preserve design. The Board of Supervisors is anticipated to consider this project in 2009.

City of Chula Vista/DAVID GARCIA requested that a jurisdictional boundary line be added to Preserve Status maps.

GODDARD stated that it could be added to future maps.

GODDARD stated that Brookfield Shea is offering 109 acres within the Salt Creek area. These lands are undergoing Wildlife Agencies' required wetland restoration. The land is currently starting its fourth year of a 5 year success criteria. Future infrastructure is also an outstanding issue.

CHAIRMAN COX asked if the 2 proposed vacations would be replaced with other Preserve lands.

GODDARD stated yes.

**5. Policy Decisions**

**(V.A)** GODDARD stated that the Preserve Management Team at their last meeting held May 28<sup>th</sup> directed POM staff to draft a dispute resolution process. POM staff is discussing dispute resolution options with County Council and the City's Attorney office. POM staff is exploring the option to include non-binding mediation with a neutral third party.

County of San Diego/RENÉE BAHLE asked the Policy Committee members if they agreed with the general concept to hold non-binding mediation meetings with a neutral third party for items that the POM Policy Committee cannot reach consensus on.

CHAIRMAN COX stated that the POM was anticipated to be a party separate than the County and/or the City. For a variety of reasons the County and the City did agree to become the POM. It does have validity that the POM take a look at a non-binding mediation option for items that we cannot reach consensus on. We would like to keep the POM collegial since we have the ultimate same goals and intentions for the Preserve. If we do come to an issue that we can't come to consensus, it wouldn't hurt to have this type of dispute resolution in place.

CHAIRMAN COX is on the Board of Directors of the Institute for Local Governments. This group is in the process of drafting a dispute resolution process that would be available to local governments. Other dispute resolution agencies exist like the San Diego Mediation Institute which is local. The POM should look into some type of resolution process that does not give up any jurisdictional authority. Because these are non-binding options, neither jurisdiction would give up an authority. Having a neutral third party step in could be helpful.

DEPUTY MAYOR RINDONE stated that there would be times when the natural interests of two governmental agencies may not differ. We should look at alternatives that could be mutually beneficial. DEPUTY MAYOR RINDONE suggested that POM staff draft a dispute resolution.

CHAIRMAN COX agreed and directed POM staff to draft a dispute resolution process which included a non-binding advisory option.

DEPUTY MAYOR RINDONE agreed that the process be non-binding.

GARCIA asked when the dispute resolution process would be utilized.

CHAIRMAN COX stated that both parties, the City and the County, would have to agree on which items to take to mediation.

GARCIA stated that currently there is no dispute resolution in place. Status quo remains if a majority vote is not reached.

CHAIRMAN COX stated it would be a non-binding process so the jurisdictions will still have the decision of what they ultimately want to do. 99% if not all issues can hopefully be worked out without having to go to mediation. However, if mediation is agreed upon, it may be helpful to have a third party present that may have ideas neither party thought of. It's really more of a facilitator role.

**(V.B)** GODDARD stated that infrastructure can be found to be a compatible use within the Preserve per Policy 6.6 of Phase I RMP and Section 6 of the City's MSCP Subarea Plan. Examples of Infrastructure Facilities per the City's MSCP Table 6-2 include Storm drain & flood control/detention facilities, desilting & sedimentation basins, extensions of electric &/or gas utility services to individual services, fire access roads, brush management roads, maintenance & operations roads, and new trails. The City's MSCP Subarea Plan defines future facilities as those necessary to support City services or planned development in the future that are not specifically listed in the Chula Vista MSCP Subarea Plan as a Planned Facility. In February 2007, the Policy Committee approved IOD/Fee Title language regarding existing infrastructure, planned infrastructure, and substitution of conveyance land. POM staff has prepared two recommendations.

GODDARD stated that the County recommends that siting of future infrastructure, i.e. not existing or described, as a "Planned Facility" in the Chula Vista MSCP should be processed on a case-by-case basis. Conveyance documents - title deed or IOD - shall not reference the siting of future infrastructure. If there is a proposal to site infrastructure within Preserve areas, the person/entity seeking such approval shall request the location of the easement from the POM, who is granted the authority to allow such siting when deemed appropriate.

LUNDSTEDT stated that white papers outlining the City and the County's positions have been included as handouts. The City's MSCP Subarea Plan includes definitions for planned and future facilities. The City's MSCP definition for future infrastructure is not intended to create major impacts to the Preserve. The Wildlife Agencies have placed a limitation on how much acreage can be impacted by future facilities – 2 acres per project with a cap of 50 acres. These acreages may be exceeded with concurrence from the Wildlife Agencies. The City's white paper also includes a process for the POM to review and comment on proposed future infrastructures. The City's MSCP Subarea Plan also includes specific siting criteria. Therefore, the City recommends that future infrastructure be subject to review and comment by the POM and the approval by the appropriate jurisdiction, which is already granted to them through the MSCP permit. Conveyance documents should recognize Future Facilities shall be sited pursuant to City's MSCP Siting Criteria.

LUNDSTEDT stated that the RMP is very specific in providing policy direction regarding when the POM has review and comment responsibilities vs. approval authority. The white papers include citations of these sections.

BAHL stated that it comes down to that the County believes that if both entities, the City and the County, are named on the title, that both entities should have the say on where any future infrastructure is to be located. In the end, there is still an option for either entity to condemn the easement location if necessary, if the POM can't come to agreement. Instead of giving the siting of future infrastructure upfront, both entities would be involved in the decision making process.

LUNDSTEDT stated that all the facility siting criteria adopted in the City's Subarea Plan is included in the CEQA documentation and will have oversight by the Wildlife Agencies. The City is not asking for approval authority for the location of future infrastructure in Preserve lands located within the County's jurisdiction. The City believes the County is asking for approval authority over lands located within the City's jurisdiction.

GARCIA stated that the condemnation process for a City against a County is much more difficult than vice-versa.

County of San Diego/MARK MEAD stated that the point in a condemnation suit is to show a more necessary use for an easement. The jurisdiction would have to show that the infrastructure easement is a more necessary use than the open space. If it's not a more necessary use, then the easement should be located outside of the Preserve.

KIM KILKENNY stated that Otay Ranch Company has historically been Switzerland on the future infrastructure issue as they have been neutral on the language placed on the conveyance document. Currently, Otay Ranch Company feels more like Poland between two entities. Otay Ranch Company needs to proceed with their IODs. Future infrastructure may be looked at through various policy perspectives. From a macro perspective, the RMP expressly intended that once the Plan was adopted, the jurisdiction having land use authority over the land in vast majority of cases would have control over that land and adjacent Preserve system without the interference of the other land use jurisdiction. That was a conscious decision made by the City and County as a matter of policy over 15 years ago. Policy 9.6 of Resource Management Plan (RMP) Phase 1 states that the RMP may be amended by the legislative body having jurisdiction over the land use affected by the amendment provided that the amendments are subject to the review and comment of the POM except a land use jurisdiction acting alone may not reduce the size of the Preserve, cannot violate the biological standards and cant adversely impact the Preserve design.

KILKENNY stated that infrastructure is permitted in the Preserve per the RMP. The RMP includes conceptual infrastructure locations. Infrastructure plans and their implementation shall be coordinated with the POM. The legislative body having land use authority should have control over what occurs on the lands within their jurisdiction. Future infrastructure should be looked at as a practical matter.

KILKENNY passed out handouts with the definition of future facilities from the City's MSCP Subarea Plan. The definition limits and specifies the types of facilities which may be placed in the Preserve. Those facilities are those necessary to implement the development of some projects. They cannot be precisely defined today because we don't know the engineering realities of future developments but we do know that there is the possibility that infrastructure may be located within the Preserve. The Wildlife Agencies agreed this was a good program since they recognized that we cannot identify all facilities today. The City's MSCP Subarea Plan only allows minor facilities with minor impacts necessary to serve adjacent developments. There is a limit of 2 acres per facility and a total of 50 acres cumulative total. This is 50 acres out of a 11,375 acre Preserve.

KILKENNY read from the County's MSCP Subarea Plan regarding infrastructure - Infrastructure necessary and incidental to a development project and identified in the South County Subarea Plan that contributes to the MSCP Preserve, i.e. a hardline project, is permitted within the Preserve. Maintenance and operation of new facilities shall be allowed in accordance with standard practices existing at time of completion including access road maintenance. Fire prevention and habitat management are integral to the Preserve and does not create additional restrictions for fire control. Other local roads and trails within the park for local access is a permitted use. The County's MSCP Plan recognizes that infrastructure in the Preserve.

KILKENNY stated that it appears future infrastructure has become a battle over control. There may be some fear that the City will adversely impact the Preserve. Historically, the City has required Otay Ranch Company to remove sewer from Wolf Canyon which was allowed by the Otay Ranch plan. A trail also had to be removed in Wolf Canyon, again, the trail was approved by the Otay Ranch plan. Chula Vista has reduced the number of acres approved for active recreation in the Otay Ranch plan by 190 acres. They removed Alta Road from the Preserve, Otay Valley Road from the Preserve, they increased size of Preserve in Salt Creek by reducing the number of development acreage in that area, they reduced acreage of University site within the Preserve. This evidence shows that the City has aggressively implemented the RMP and the MSCP.

KILKENNY stated that condemnation should not be an option for resolution. The developer would be held hostage until the condemnation process was completed. Otay Ranch Company has been pushing for resolution on future infrastructure as it is the hope that all offered IODs by Otay Ranch Company area accepted by the POM without any hold ups. It is the hope that this be resolved today, however Otay Ranch Company can wait until the next Policy Committee on October 30<sup>th</sup> for a decision if more time is needed.

CHAIRMAN COX stated that the Preserve is a unique open space system because of its size and that there is a guaranteed funding mechanism for the management of the Preserve. There is no element of distrust between the

County and the City. However, the original role of the POM has changed since the County and the City decided to take on the role of the POM. As property is conveyed, the County and the City are named on the fee title. Because both entities own the land, both entities should have a say on any impacts to the land. Neither should play a secondary role. CHAIRMAN COX understands the City's position that some control is given to the other jurisdiction. However this truly is a partnership where there is trust at all levels, staff, counsels, and policy makers.

CHAIRMAN COX believes staff can work together to find resolution by the next Policy Committee meeting on October 30<sup>th</sup>. However there is no desire to hold up any IODs. Historically, there have been IODs which have been accepted without any language added. We should be able to accept IODs currently in limbo without any language added to the conveyance documents, those being the Brookfield Shea property in Salt Creek totaling approximately 41 acres and the Otay Ranch properties in Wolf Canyon totaling approximately 73 acres with the understanding that both jurisdictions will need to continue discussions on finding ultimate resolution on future infrastructure.

DEPUTY MAYOR RINDONE stated the appropriate action is to direct staff to continue discussions. The City feels strong that the owner of the property within the Preserve doesn't want to trump the other agency. There is no assurance that this would not occur. There could be genuine disagreements that may not be mutually beneficial between the agencies. This would be a situation where one jurisdiction may trump the other. The City does not agree that one jurisdiction may be able to trump the other.

CHAIRMAN COX clarified that the owner of the Preserve is ultimately the City and the County. The County is not questioning who the land use authority is based on a property's location. The City has the land use authority over land within its jurisdiction as the County has land use authority over the unincorporated lands.

CHAIRMAN COX asked for clarification on the City's position white paper. The future infrastructure language included in the white paper states that the easement would be reserved to the Grantor who is the developer. Does that mean that the developer would have the unilateral right to decide where an easement would be placed on the property after the land has been conveyed to the POM?

LUNDSTEDT stated that the language in the handout is what was placed in previous IODs which have been acknowledged. After having conversations with the County and legal counsels, the City clarified on a go-forward basis that we would like to reserve the right to the City not the developer. This language would be changed for future conveyance documents.

CHAIRMAN COX asked if the language would say that the easement would be reserved to the land use authority.

LUNDSTEDT stated that we can discuss the exact language with legal counsels but that the County and the City are generally on the same page.

CHAIRMAN COX asked that any new language proposed to be placed on conveyance documents regarding future infrastructure be brought back to the Policy Committee for their review.

CHAIRMAN COX made the motion to accept the pending conveyances for those lands listed as Row 10 and Rows 16-18 of the Preserve Status Matrix dated July 17<sup>th</sup>, 2008 which total approximately 115 acres without any added language referring to future infrastructure, with the understanding that both jurisdictions need to continue discussions on how this matter will ultimately be resolved.

DEPUTY MAYOR RINDONE did not support the motion. DEPUTY MAYOR RINDONE made the motion to continue the entire item to the next Policy Committee meeting of October 30<sup>th</sup> and directed staff to continue discussions on future infrastructure.

CHAIRMAN COX supported the motion.

GARCIA asked how practical it would be for condemnation to be a solution. This may be something that staff discusses as a part of the dispute resolution process discussion.

BAHL asked KILKENNY for clarification on any deadlines Otay Ranch Company needs to meet on conveying lands as this item has been continued to the next Policy Committee meeting scheduled for October 30<sup>th</sup>.

KILKENNY stated that Otay Ranch Company does not need to access these conveyance land credits until after the October 30<sup>th</sup> meeting.

BAHL clarified that after the Policy Committee takes action on the item, the City and the County will need time to review and accept final conveyance documents.

**(V.C.)** MCNEELEY stated POM staff brought forward eligibility and review criteria for the Non-Otay Ranch Mitigation Land Program to the PMT and Policy Committee in January of this year. POM staff was directed to hold a formal public review period for the project. During that time we received comments from Fish and Wildlife Services and Fish and Game, McMillin Companies, South Bay Expressway, Otay Land Company, and the City of Chula Vista. The PMT directed POM staff at their meeting held March 7<sup>th</sup> to receive written comments until April 21<sup>st</sup>, post received comments from the comment period and review and analyze comments and bring forward a recommendation to the PMT. The City provided a modified eligibility and review criteria list during the public review period. The County concurs with the City's proposed Program without modification. The PMT recommended approval of the eligibility and review criteria at its last meeting held May 28<sup>th</sup>.

MCNEELEY presented the eligibility and review criteria. The eligibility criteria includes that the lands be located within the Otay Ranch Preserve boundary; the lands must be associated with a project within the City or the County's jurisdiction, the applicant submit a cost analysis to discuss management and maintenance costs, funding must be in the form of a CFD, land management standards are to the standards prescribed in the RMP, land is free of environmental contamination liabilities, the applicant provides legal and physical access, and the site is free of encumbrances.

MCNEELEY stated that the City is requesting an additional criterion be discussed - POM to consider management of lands not contiguous with Preserve if developer provides funding in excess of estimated management costs. As an example, if the cost analysis states that management of the land will cost \$100,000 but that the land is not contiguous, POM staff may consider doubling the cost to access and maintain the land.

DEPTUY MAYOR RINDONE stated that he asked staff to add this eligibility criterion. It is not a matter of if the Preserve will be assembled but when, so we should consider non-contiguous properties.

CHAIRMAN COX asked for clarification. Our preference is to fund the management and maintenance of these lands through a community facility district. But the example used that the cost of land management is \$100,000, POM staff may ask for \$200,000. Is that to add flexibility? Would the money be placed in a trust account to be drawn on in perpetuity?

MCNEELEY stated we wouldn't know the exact cost for land management but once we receive a cost analysis we could bring that forward back to the PMT for further discussion.

CHAIRMAN COX stated that he doesn't have a problem with the additional language but we need to be real careful with the funding of the management of the land. Community facility districts have a guaranteed source with a built in escalator. Any lump sum funding comes with risks.

CHAIRMAN COX asked if by adding the criterion is it still the intent to that lands be located within the Preserve. Would mitigation lands in Jamul be considered?

MCNEELEY stated it would allow consideration of lands non-contiguous to the Preserve.

LUNDSTEDT stated the eligibility criteria should be weighted and it is the preference that lands be located within the Preserve and funded through a CFD, but that each proposal may be considered and it will be up to the Policy Committee to have final decision.

CHAIRMAN COX stated that the first criterion is for the lands to be located within the Otay Ranch Preserve.

DEPUTY MAYOR RINDONE stated this would provide a mechanism if the lands were within the Otay Ranch Preserve boundary but not contiguous. We wouldn't be considering managing mitigation lands in Jamul as that is not the POM's responsibility.

CHAIRMAN COX moved to approve the eligibility and review criteria for the Non-Otay Ranch Project Mitigation Lands Program with the added language that reads: POM to consider management of lands not contiguous with Preserve if developer provides funding in excess of estimated management costs.

DEPUTY MAYOR RINDONE supported the motion. Motion passed unanimously.

**6. Long-Term Implementation Program**

(VI.) GODDARD stated that the Long-Term Implementation Program public review period ended on February 20<sup>th</sup>. Comments were received from the Bureau of Land Management, San Diego County Archaeological Society, McMillin Companies, the Otay Ranch Company, and the Wildlife Agencies. POM staff is currently working on response to comments. Due to the Working Group meetings held in April and May, updating the Long-term Implementation Program is approximately a month to 2 months behind schedule. County POM staff will provide a revised copy to the City for internal review. As the County Board of Supervisors is in process in adopting Phase 2 RMP in its entirety, we will release the updated Program back out for public review. CARMICHAEL reported earlier in the meeting that the Board is to consider this item in late Fall/Early Winter.

GODDARD stated that Working Groups were held in April and May. This included a field trip. All meetings and the field trip were well attended by the Wildlife Agencies, Development community, and County and City staff. Discussions included POM Responsibilities, Allowed uses of CFD 97-2 funds, FY08-09 Budget, and Prioritization of tasks. We will go into more details of these topics as we discuss Finance.

**7. Finance/CFD 97-2 Overview**

(VII.) MCNEELEY stated that the FY07-08, projected actuals, and the FY08-09 budgets are included as handouts. The numbers are considered estimates until the City and the County close out the end of the fiscal year books. The City did go out for tax levy in FY 07-08 for \$382,623. The estimated revenue collected for FY 07-08 is \$360,126. The estimated expenditure for FY 07-08 is \$305,720 and the estimated beginning FY08-09 Reserves is \$354,875.

MCNEELEY referred to the table comparing the FY07-08 budget, projected FY 07-08 actuals, and the FY08-09 budget. The PMT at their last meeting directed POM staff to put this information together.

CHAIRMAN COX asked if it is the goal to have 100% in the Reserve.

MCNEELEY stated that ideally we would like to have 100% in the Reserve for cash flow basis. FY07-08 showed some overage for administrative costs mainly to deal with policy issues and the City's finance staff was heavily involved last fiscal year. For FY08-09, the major tasks include administrative costs, Preserve operations and maintenance, and the resource monitoring program. Looking at the FY07-08 budget, 35% was allotted for administrative costs. For FY08-09, we tried to reduce this amount to 25% - \$118,500. Preserve operations and maintenance includes a full-time Park Seasonal Attendant and any work needed for the Preserve such as fence maintenance and any equipment needed - \$47,000. The resource monitoring program includes expanded/enhanced surveys or active management and on-going monitoring surveys which total \$165,000 and have allotted \$175,000 for baseline surveys for any new lands accepted by the POM this current calendar year. The total budget needed to be levied for is \$505,500. \$60,000 was levied in FY07-08 and will be used this current fiscal year to complete baseline surveys currently encumbered in a contract with Dudek. The City anticipates levying for approximately \$509,000.

CHAIRMAN COX asked if the \$175,000 for baseline surveys is in anticipation of bringing in another 800 acres into the POM by December.

MCNEELEY stated yes.

CHAIRMAN COX stated that as we get lands in it is normal practice to complete baseline surveys to establish what resources are onsite.

MCNEELEY stated yes. We have not entered into a contract and will not until these lands are accepted by the POM. If additional lands are not accepted by the POM by December those funds may roll over into the next fiscal year's reserve.

MCNEELEY reported on the Working Group meetings. At one of the Working Group meetings, the use of CFD funds was discussed. The resolution which implemented the CFD, Resolution 19110 includes an excerpt which states that the monitoring, maintenance, operation and management of public property in which the City has a property interest and which conforms to the requirements of the Ordinance or private property within the Otay Ranch Preserve which is required by the POM to be maintained as open space or for habitat maintenance or both. Such services shall not include the maintenance, operation and/or management of any property owned, maintained, operated and/or managed by the federal and/or state government as open space and/or for habitat maintenance. City staff discussed with the City Attorney and it is clear that the funds can be used on POM owned lands as well as has the flexibility to be used on lands in private ownership. The County is in discussion with County Counsel and as the City has new legal representation, POM staff has not had an

opportunity to discuss in detail as a group. We will have an update on this issue at the next Policy Committee meeting.

MCNEELEY stated that the PMT directed POM staff to work with the Working Group on the FY08-09 budget as far as reprioritizing tasks. Under the City's interpretation of where CFD funds could be used, we allowed the flexibility that funds could be used on POM owned lands and lands under private ownership. The Working Group suggested allocation of \$125,000 for cactus wren restoration in Salt Creek, \$50,000 to install gates in areas which have illegal off-road vehicle use, and \$50,000 for weed eradication based on need utilizing the surveys to be completed by Dudek. Once the POM has an opportunity to resolve where CFD funds can be spent, we will hold a follow-up meeting with the Working Group.

CHAIRMAN COX asked if the Policy Committed needed to take any action on finance.

MCNEELEY stated no. This item is an informational item only.

DEPUTY MAYOR RINDONE clarified that the added language for the Non-Otay Ranch Project Mitigation Lands Program should read "POM to consider management of lands not contiguous within the Otay Ranch Preserve boundary if developer provides funding in excess of estimated management costs".

BAHL stated that this change now makes the added language consistent with the first eligibility criteria which states lands must be located within the Preserve boundary.

CHAIRMAN COX supported the change.

8. **(IIIV)** DEPUTY MAYOR RINDONE asked if anyone had any questions with items presented at today's hearing. No questions were asked. The next Policy Committee meeting is scheduled for Thursday, October 30<sup>th</sup> from 2-5pm at the County Administration Center.

9. **Adjournment**

**(IX.)** DEPUTY MAYOR RINDONE adjourned the meeting at 4:00 pm.

[illegible]

**OTAY RANCH PRESERVE JOINT POWERS AGREEMENT  
DISPUTE RESOLUTION PROCESS**

**Preserve Owner Manager Staff Recommendation**

November 20, 2008

**PRESERVE OWNER MANAGER STAFF RECOMMENDATION:**

Preserve Owner Manager (POM) staff recommends that the Policy Committee approve the dispute resolution process as outlined below and their preferred implementation method.

**BACKGROUND:**

The concept to utilize a non-binding neutral third party in the dispute resolution process was presented to the Policy Committee at their last meeting held July 17, 2008. The Policy Committee supported this concept and directed staff to draft a dispute resolution process. At the October 29, 2008 Preserve Management Team (PMT) meeting, the PMT recommended approval of the dispute resolution process as outlined below. The PMT did not take action on a preferred implementation method.

The proposed dispute resolution process may be formalized by amending the Otay Ranch Preserve Joint Powers Agreement (JPA). Amending the JPA requires action by the County Board of Supervisors and the City of Chula Vista City Council. Alternatively, the dispute resolution process may be approved by the Policy Committee and may be implemented as a POM policy.

**POM Policy Decision Making System:**

The "Joint Powers Agreement Between the City of Chula Vista and the County of San Diego for the Planning Operation and Maintenance of the Otay Ranch Open Space Preserve" (the "JPA") requires a quorum of both elected representatives of the POM Policy Committee for purposes of conducting business. There is currently no process in place to resolve issues on which the Policy Committee is unable to reach consensus. Section 5. of the JPA authorizes the Policy Committee to establish policies for the PMT. Accordingly, City staff recommends that the Policy Committee adopt a dispute resolution policy to allow the POM Staff to utilize a neutral third party for non-binding mediation, in the event the Policy Committee is unable to reach consensus on an issue related to the POM. The proposed process is outlined below.

**Proposed Dispute Resolution Process:**

- If a dispute arises out of or related to the POM that cannot be resolved by POM Staff and the PMT, the PMT on consensus may direct POM Staff to participate in non-binding mediation with a neutral third party mediator in order to resolve the dispute. In doing so, the PMT must also come to consensus on the maximum amount that may be spent on the mediation.
- If the PMT cannot not reach consensus to utilize mediation, the PMT will present the dispute to the Policy Committee for their consideration and direction. If the Policy Committee directs POM Staff to participate in mediation, the Policy Committee must also set the maximum amount that may be spent on the mediation.
- Each agency shall be responsible for determining the source of funds for its share of the mediation costs.
- The mediation shall be conducted by the National Conflict Resolution Center ("NCRC"), or a similar neutral mediation service within the County of San Diego. Once a mediator is identified, POM Staff shall confirm that the mediator will prepare a written decision in the matter.

- The POM Staff shall agree on who shall conduct the mediation; if they are unable to agree, they shall defer to NCRC, or other selected mediation service, to choose the best-suited mediator to conduct the mediation.
- The POM Staff shall attend the mediation and shall be entitled to make written and/or oral presentations of their respective agencies' positions to the mediator.
- The POM Staff shall agree on the date and time for the mediation.
- At the conclusion of the mediation, POM Staff shall obtain the mediator's written recommendation regarding resolution of the disputed matter. The written recommendation shall be provided to the POM Staff. All mediation results and documentation, by themselves, shall be non-binding unless otherwise agreed upon, in writing, by both parties.
- After receiving the mediator's written recommendation, the POM Staff shall forward the recommendation to the referring body (PMT or Policy Committee). If the matter was referred by the PMT, the PMT shall consider the mediator's recommendation at their next scheduled meeting. The PMT may adopt the mediator's recommended resolution, in whole or in part, reject it, take no action on it, or take any other action it deems appropriate, and shall provide direction to POM Staff accordingly. If the PMT does not agree to adopt the mediator's recommended resolution, the matter shall be agendaized for the consideration by the Policy Committee.
- Upon referral of the matter to the Policy Committee, the Policy Committee may adopt the mediator's recommended resolution in whole or in part, reject it, take no action on it, or take any other action it deems appropriate, and shall provide direction to POM Staff accordingly. If the mediation fails to resolve the dispute and consensus cannot be reached, the Policy Committee shall refer the matter back to the PMT for recommendation on an alternative course of action which may include any of the following:
  - Participate in additional mediation sessions;
  - Maintain the status quo;
  - Refer the matter to the Otay Ranch Sub-Committee as established by County Board of Supervisors Policy I-109;
  - Refer the matter to the legislative bodies of the City and the County for direction;
  - Take other action as permitted by the JPA; or
  - Any other legally permissible action which the Policy Committee may deem appropriate.

Estimated FY07-08  
POM Budget

Item VI.A. FY07-08 Summary  
Estimated FY08-09 Page 19 of 19  
POM Budget

Task	Projected Expenditures	FY07-08 Actuals thru Q3 (City Admin Charges are thru 05/31)	FY 07-08 Projected Actuals thru Q4	Difference between Projected Expenditures and Projected Actuals thru Q4 FY08-09 Budget	Task	Projected Expenditures
Consultant CFD administration	\$15,000	\$15,229.00	\$17,630.47	-\$2,630.47	<b>Administration</b>	
City Staff					CFD Consultant	\$18,000
Environmental Manager	\$25,000	\$20,495.76	\$21,129.76	\$3,870.24	<b>City Staff/County Staff Time</b>	
Engineering	\$15,000	\$21,832.35	\$22,212.66	-\$7,212.66	<b>City Staff</b>	
Counsel	\$5,000	\$2,651.40	\$2,651.40	\$2,348.60	Environmental Manager	\$20,800
County Staff					Engineering	\$15,000
Environmental Planner	\$40,000	\$31,523.20	\$42,030.93	-\$2,030.93	Counsel	\$5,000
Group Program Manager	\$5,000	\$4,001.76	\$5,335.68	-\$335.68	<b>County Staff</b>	
Counsel	\$5,000	\$8,601.00	\$11,468.00	-\$6,468.00	DPR Staff	\$52,456
General Services	\$3,000	\$0.00	\$0.00	\$3,000.00	Counsel	\$4,496
<b>ADMIN TOTAL</b>	<b>\$113,000</b>	<b>\$104,334.47</b>	<b>\$122,458.90</b>	<b>\$118,500</b>	General Services	\$2,748
Preserve Operation and Maintenance					<b>Administration Total</b>	<b>\$118,500</b>
County Seasonal Park Ranger*	\$39,000	\$26,452.36	\$35,269.81	\$3,730.19	<b>Preserve Operation and Maintenance</b>	
Preserve Maintenance					County Seasonal Park Attendant <sup>1</sup>	\$36,000
Weed Removal**	\$0	\$0.00	\$0.00	\$0.00	<b>Preserve Equipment and Improvements</b>	
Trash Removal	\$2,000	\$0.00	\$0.00	\$2,000.00	Fence Maintenance	\$3,000
Security					Minor Equipment, i.e. Hand/Power Tools	\$5,000
Enforcement***					Signs	\$3,000
Fence Maintenance	\$3,000	\$0.00	\$0.00	\$3,000.00	<b>Preserve Operation and Maintenance Total</b>	<b>\$47,000</b>
Preserve Improvements (Hand tools/Minor Equipment)		\$0.00	\$17,742.10	-\$17,742.10	<b>Resource Monitoring Program</b>	
Signs	\$3,000	\$3,065.86	\$3,065.86	-\$65.86	Biological Resources: Expanded/Enhanced Baseline Survey OR Active Management <sup>2</sup>	\$100,000
Fence Installation	\$30,000	\$0.00	\$17,182.83	\$12,817.17	Biological Resources: On-Going Surveys <sup>3</sup>	\$65,000
<b>PRESERVE OPS &amp; MAINTENANCE</b>	<b>\$77,000</b>	<b>\$29,518.22</b>	<b>\$73,260.60</b>	<b>\$47,000</b>	<b>Resource Monitoring Program Total</b>	<b>\$165,000</b>
Resource Monitoring Program					<b>SUB TOTAL FY08-09 (Admin, Maint, and Monitoring)</b>	<b>\$330,500</b>
Biological Resources Surveys	\$75,000	\$0.00	\$50,000.00	\$25,000.00	<b>ONE-TIME COSTS FOR BASELINE SURVEYS IF ADDITIONAL LANDS ARE CONVEYED TO THE</b>	
Cultural Resources Surveys	\$35,000	\$0.00	\$0.00	\$35,000.00	Baseline Survey <sup>5</sup>	\$175,000
<b>MONITORING TOTAL</b>	<b>\$110,000</b>	<b>\$0.00</b>	<b>\$50,000.00</b>	<b>\$340,000</b>	<b>TOTAL IF ADDITIONAL LANDS ARE CONVEYED TO THE POM IN FY08-09</b>	<b>\$505,500</b>
<b>Total</b>	<b>\$300,000</b>	<b>\$133,853</b>	<b>\$245,720</b>	<b>\$505,500</b>	Biological Resource Baseline Surveys not completed in FY 07-08 (funding from levy of FY07-08, \$50k paid in FY07-08) <sup>6</sup>	\$60,000
Balance of Monitoring Contract (Dudek)		\$60,000*	\$60,000*	\$60,000*	<b>GRAND TOTAL</b>	<b>\$565,500</b>
<b>GRAND TOTALS</b>	<b>\$300,000</b>	<b>\$193,853</b>	<b>\$305,720</b>	<b>\$505,000</b>		

\*The \$60,000 for Biological Resource Baseline Surveys not completed in FY07-08 is listed on the FY08-09 budget for accounting purposes only. The funding for this task was from levy of FY07-08.